Supreme Court, U. S.
FILED
MAR 27 1978
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-1371

STATE OF WISCONSIN,
Appellee

vs.

JAMES T. CONWAY,
Appellant.

ON APPEAL FROM THE SUPREME COURT OF WISCONSIN

Jurisdictional Statement

JAMES T. CONWAY
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No. _____

STATE OF WISCONSIN,
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Appellant.

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Jurisdictional Statement

NATURE OF THE CASE

James T. Conway appeals from the final judgment of the Supreme Court of the State of Wisconsin filed on the 18th of October, 1977 from which a motion for hearing and or rehearing was denied on the 3rd of January, 1978 and any and all prior orders of the said Supreme Court. This statement is submitted to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

CITATION OF DECISIONS BELOW

The opinion of the Wisconsin Supreme Court (A-Ap.p. 111) is reported officially at Wisconsin and unofficially at _____. The decision denying the defendant's hearing and or rehearing (A-Ap.p. 117) is reported officially at _____ and unofficially at _____.

JURISDICTION

This action was originally brought pursuant to secs. 256.281 and 256.283, Wis. Stats. 1976 before the Supreme Court of the State of Wisconsin.

The Supreme Court after reviewing what defendant claims to be a defective complaint (no addresses of parties involved, no showing of authorization to issue, no authorization of anyone to sign and no dates) issued a ridiculous order in which the defendant was ordered to answer the complaint and to serve his answer within twenty days from date and to then file his answer in the Supreme Court. However, the fantastic brilliance of the seven legal minds and 14 legal eyeballs forgot to see that the order failed to state upon whom and where the defendant was to answer, or else the court as a body did not act as a whole in issuing its order and thus acted contrary to sec. 256.283 (4).

The defendant sought dismissal of the matter by filing motions and affidavits for dismissal but the Supreme Court of Wisconsin adopted the lopsided position of using its original jurisdiction position to issue orders and to hear the matter but retained its appellate jurisdiction when it came to denying the defendant the right to a hearing on his motions and then the court proceeded to change its own rules of procedure by not writing decisions except for a few

chicken scratches on one piece of paper approximately 1½ inches by 3 inches and upon the margin of a piece of paper while other orders were issued without any chicken scratches. The court has further permitted the one scrap of paper to be removed from said file without proper authority. The court has further permitted documents to be entitled incorrectly while others are entitled correctly, contrary to sec. 256.283 (3). The court has permitted the referee's appointment to expire and then extended it without a hearing. The court has issued an order filed the 18th day of October, 1977 while it issued a mandate dated the 15th day of October, 1977 which are not the same and they must be, one indicates Judge Abrahamson declined to participate and the order does not indicate that and therefore the court is either altering its records or it is not reading the orders or is sloppy in doing so.

Now the defendant, James T. Conway, doesn't mind playing cards but when the dealer makes the rules, changes them as the dealer hands out his own manufactured cards and then changes the cards as they are dealt and when the said James T. Conway complains about said items, the court, merely makes life more miserable, it is time to blow the whistle on such a card game.

A notice of appeal to the United States Supreme Court was filed on the _____ with the Supreme Court, State of Wisconsin.

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28, United States Code, section 1257 (2) and section 1257 (3).

The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal. A longer list could be made but why go on?

Boddie v. Connecticut 401, U.S. 371 (1971); *Duncan v. Louisiana* 391 U.S. 145 (1961); *Herbert v. Louisiana* 272 U.S. 312 (1926); *Saltonstall v. Saltonstall* 276 U.S. 260 (1927); *Barrows v. Jackson* 346 U.S. 249 (1953); *Pickering v. Board of Education* 391 U.S. 570 (1968); *Thomas v. Collins* 323 U.S. 516 (1945); *Garrison v. Louisiana* 379 U.S. (1964).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The case involves Wis. Stats. secs. 1921, 251.08, 251.11, 251.12, 251.18, 251.21, 251.14, 251.93, 256.283, 256.281, 256.286, 801.09 (1) and (2), 801.02 (1) and (2). Wisconsin Constitution Art. VII, sec. 3 and Art. VII, sec. 2. Said items may be found in Vol. I and II of Wis. Stats. 1975.

The Constitutional provisions involved in this appeal are Article I amendments to the United States Constitution and Article XIV Section I Amendments to the United States Constitution.

QUESTIONS PRESENTED

1. Did the actions of the Supreme Court of the State of Wisconsin violate the Defendants right to a fair and impartial hearing as provided by the 14th Amendment of the U.S. Constitution?

2. Did the actions of the Supreme Court of the State of Wisconsin violate the defendant's right to free speech as provided by the 1st Amendment to the United States Constitution?

3. Were the acts of the Supreme Court of the State of Wisconsin of such a nature that they not only violated the defendant's right to a fair hearing and freedom of speech but violated any and all sense of equality and fair play as contemplated by the United States Constitution, the Amendments thereto as a whole, and the Bill of Rights?

4. Were the acts of the Supreme Court of the State of Wisconsin of such a nature as to invoke the custodial powers of the United States Supreme Court under the Writ of Certiorari powers of the United States Supreme Court?

5. Did the Supreme Court of the State of Wisconsin ever have jurisdiction over the defendant?

STATEMENT OF THE CASE

1. On the 5th day of April, 1976, the defendant was served with a complaint in the above matter by the sheriff of Rock County, Wisconsin.

2. That said complaint was undated and contained no addresses of either the Plaintiff or its attorney. (A-Ap.p. 103)

3. That on the 5th day of April, 1976, the defendant was also served with an order to answer the above referred to complaint. Said order was signed by the clerk of the Supreme Court and failed to state upon whom the defendant was to serve his answer and where he was to serve his answer. (A-Ap.p. 102)

4. The defendant did file with the court a motion to dismiss and an affidavit in support of said motion. Said motion and affidavit was not served upon anyone as the defendant did not know upon whom or where he was to serve his motion and affidavit, but was filed with the court.

5. On April 30, 1976 the attorney for the Plaintiff filed an affidavit and motion for default based upon the fact that even though the order and complaint were deficient as alleged by the defendant, the defendant should have known the addresses and upon whom to serve, as the defendant had had some prior correspondence with the attorney for the plaintiff. Note, however, that the attorney for the plaintiff further tries to hide his incompetence of himself and the court by not indicating how long ago the defendant had correspondence with him and makes no attempt to show when that correspondence was.

6. On May 3, 1976 the court issued a document (A-Ap.p. 109) indicating a decision was announced and

that the defendant was to serve his answer as indicated therein. That said document was issued without a hearing and without an opinion or decision being filed. Thus giving to the defendant no method of determining the legal basis for the court's document as issued.

7. On the 21st day of May, 1976, the defendant again filed a motion and an affidavit in support thereof for dismissal of said matter.

8. On the 24th day of June, 1976, the attorney for the Plaintiff filed a motion and affidavit in support thereof requesting the court to enter a default judgment.

9. On July 12th, 1972, the court issued another document (A-Ap.p 111) indicating a decision had been announced except this time the document the defendant received indicated that an opinion of the court was on file. The defendant went to said court to examine the opinion of the court and could only find some "chicken scratches" on a small piece of paper approximately 1½ inches by two inches and some other chicken scratches in the margin on another piece of paper. Said court again had issued the document without a hearing.

10. On July 26, 1976, the defendant filed another motion and affidavit in support thereof for dismissal.

11. On August 3rd, 1976, the court finally issued an order to show cause for the defendant to appear in person and that the wording of the said order by the court indicated that the court was now of such a maniacle temperament that the defendant would never receive a fair hearing. This was also the first order to be actually signed by a judge of the court.

12. On September 8, 1976, the court did hold its kangaroo court and the Chief justice without even

consulting with the balance of the court stated from the bench that the defendant would have to answer within twenty days or lose his license, and a court order did issue on September 8, 1976, indicating exactly what the chief justice stated from the bench.

13. That the defendant did then make a special answer in which he denied any jurisdiction the court had over the defendants.

14. On the 15th day of October, 1976, the court issued some type of document (A-Ap.p. 115) appointing Francis H. Wendt to act as referee in said matter. Said document further stated that the said referee was to try the issues and report his findings of fact and recommendations to the court within sixty days from the date of the order. Said document further contains a place for one Marilyn L. Graves, Deputy Clerk of the Supreme Court to sign stating that she has compared the document and foregoing with the original order and judgment of the court and that it is a correct transcript therefrom, and of the whole thereof, but the said Marilyn L. Graves, did not sign said document.

15. That on October 15, 1976, the court issued an order appointing Francis H. Wendt to try the issues and report his findings of fact and recommendations to the court within 60 days of the date of this order.

16. That said order appointing Francis H. Wendt along with a letter was sent to the said Mr. Wendt stating:

> "You will note that the order appointing you sets a time limit of sixty days for the completion of the trial and submission of your findings and recommendations. If it should be impossible to complete the matter within that time, please send me your letter of request for an extension so that it may be submitted to the court."

17. That on October 29, 1976, the said Francis H. Wendt did file with the court his oath of Office.

18. On December 22, 1976, the court wrote Mr. Wendt informing him that his report was due and it had not been received. Further the court asked if Mr. Wendt wished an extension of his time for filing of his report.

19. On December 23, Mr. Wendt indicated he needed an additional sixty days.

20. On December 30, 1976, the court extended Mr. Wendt's appointment until February 14, 1977. Said extension was issued 16 days after Mr. Wendt's original appointment had expired and without a hearing.

21. On February 15, 1977, the court again extended Mr. Wendt's appointment until March 15, 1977. Said extension coming one day after Mr. Wendt's extension had expired and without a hearing.

2. That to the best of the defendant's knowledge the said Mr. Wendt has never filed another oath of office except for the one filed on the 29th of October, 1976.

23. That sometime or other the said referee did set a hearing and the defendant appeared specially and told the court that it had no jurisdiction and that for the defendant to repeat all of his objections again would take all day and the defendant was getting railroaded so badly at this point that to stay would be a waste of his time and the court's time. Further, to hire an attorney and or the presentment of the defendant's case at the hearing would jeopardize his entire defense as the

Supreme Court had held in another case that if a person appeared specially at a tax appeal board and objected to the jurisdiction and then offered a defense to the facts, that he had lost his special appearance and had submitted to the jurisdiction of the tax appeal board. Thus in light of that case the defendant was in no way going to submit himself to the jurisdiction of such a kangaroo appointed bunch of cronies and so the defendant left the so called hearing.

24. The referee later submitted his report to the court.

25. The defendant again maintaining his special appearance filed a motion to dismiss with said motion being accompanied with a brief on said matter. That said brief was watered down as the defendant had still thought that the court would recognize all its mistakes and dismiss the matter.

26. The attorney for the Plaintiff then submitted a motion and a brief but not going to the defendant's issues.

27. The court then issued an order indicating the defendant had better submit further briefs or an order would issue without them.

28. The defendant wrote the court a letter indicating that he had had enough and that he would not further submit briefs as they would be superfluous and redundant.

29. The court then without setting the matter for hearing as required by sec. 256.283 (8) Wis. Stats. issued an order revoking the defendant's license.

30. That said order did not indicate that any of the said judges had refrained from participating in said

decision and order so the defendant in his motion for rehearing accused one of the justices of playing hot and cold in that she refrained from participating in one earlier order and then participated in this one. However, in the order issued by the court on the 8th day of January, 1978, the court referred to a mandate indicating that the said justice did not participate in the said final order. thus the defendant is left to believe that either the fourteen legal eyeballs did not read the final order, did not read it carefully or falsified documents to conform to the situation. So in fact a mandate is now on file in one part of the court indicating nonparticipation while the order stated nothing about it.

31. That the defendant, had on an occasion, requested a certified copy of all documents in the file of said Supreme Court and when he received the copies he noticed the little piece of paper with the "chicken scratches" was gone. The defendant thereupon asked the clerk in the Court to produce the document but was told it is not in the file and the defendant may not see it.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

There is no doubt this case falls under the jurisdiction of the United States Supreme Court.

This case utterly disgusts the writer and is only being appealed to the United States Supreme Court because of its importance to the freedom of the American people. Such tactics as used by the Supreme Court of the State of Wisconsin in this case are utterly ridiculous and infringe upon the basic constitutional rights of anyone. When the day arrives when the Supreme Court of the State of Wisconsin believes it has the power to take original jurisdiction over a matter and then proceed to make its own rules, interpret them; make its own orders, interpret them; issue its own documents, interpret them; alter its own rules midway through the matter; and remove the possibility of an appeal without the highly expensive matter of appeals to the United States Supreme Court then it is time to throw both the constitution of the State of Wisconsin and the United States in the waste basket.

The Supreme Court must hear this case as it really boils down to a situation where the control by the Supreme Court of the State of Wisconsin of the lawyers in the State of Wisconsin reduces the attorneys to a group of stooges pressed down to the life form of amoebas because the Supreme Court has, unless the case is reversed exercised such a dictatorial power. Thus not only has the court taken away the defendant's right to freedom of speech and a fair and equitable hearing, but the same rights will be taken away from all the attorneys in the State of Wisconsin and consequently all the citizens of the state will have their rights of

equality, fairness, and freedom of speech reduced to nothing, all contrary to the basics of the Bill of Rights, the United States Constitution and the Amendments thereto and especially the first and fourteenth.

The defendant acknowledges that many of the arguments presented herein were not submitted to the Supreme Court of Wisconsin at various times as the defendant recognized from the denial of his first motion that the State supreme Court was hopelessly engulfed in a "Salem witch hunt" and that under no circumstances was the defendant to receive a fair and impartial hearing. Note the infractions which the Supreme Court itself committed in the first set of documents and then see if you don't agree.

Sec. 256.283 (3) (b) Wis. Stats. "The Complaint *** It must be entitled in the name of the State of Wisconsin against the Defendant, *** It shall be presented to the Chief Justice of the Supreme Court without filing and he shall bring the matter before the Supreme Court."

Sec. 256.283 (4) "Order to answer, service, filing. The Supreme Court may by order require the defendant to answer the complaint ***."

Sec. 256.283 (5) "Answer, defense procedure. The defendant ***, His answer to the complaint shall be served upon the Plaintiff within twenty days."

Sec. 801.09 Summons, Contents of. The summons shall contain *** (2) a direction to the defendant summoning and requiring defendant to serve upon the plaintiff's attorney, whose address shall be stated in the summons. ***

Now how can the Supreme Court read the complaint without noting the absence of the Plaintiff's address or the Plaintiff's attorney's address?

How can the Supreme Court issue its own order requiring the defendant to answer the complaint when it does not state in the order issued by the court the name of the person or the person's address upon whom the defendant is to serve his answer?

How can seven so called legal minds and thus fourteen legal eyeballs overlook such basic elements of the law? Did all of them read the documents? Are they stupid? Are they careless? Or did only one man read the documents?

When the defendant attempts to have the matter dismissed by his motion the Supreme Court of the State of Wisconsin attempts to cover up its own incompetency by such methods as continuously changing its hat from a court of original jurisdiction to one of appellate jurisdiction. The court attempts to gain original jurisdiction over the attorneys by the fictitious argument that the Constitution of the State of Wisconsin gives the court rule making power of the courts in the State and therefore the court controls the attorneys. That's a crock of bull. But when the Supreme Court wants original jurisdiction and then makes decisions under its appellate rules then the Supreme Court needs some jurisdiction over it.

The Supreme Court completely ignores its own rule in *sec. 251.14 Wis. Stats.*

> "Decisions to be written; Part of Record; Certified to United States Court; printed for justices; The Supreme Court shall give their decision in all cases in writing, which shall be filed with the other

> papers in the case; and such decisions and all decisions and opinions delivered by the court *** or proceedings pending in said court shall remain in the office of the clerk. Every written opinion or decision of the Supreme Court which shall have been filed with the clerk shall constitute and be held a part of the record in the action or proceeding in which it shall have been given and filed and shall be certified therewith to any court of the United States ***".

Sec. 251.93 Wis. Stats. provides the only exception to sec. 251.14 and sec. 251.93 states:

> "Rule (affirmance wihout written opinion) in cases where the order or judgment is affirmed, opinions will not hereafter be written ***".

Now there is not a prior opinion on file in regards to any of the defendant's motions to dismiss so why no written opinions or decisions by the Supreme Court? How did the Supreme Court arrive at their document? What is their basis? cover up? Ignorance? Did they, in fact, act as a court on a whole? The defendant has asked to see the minutes of any meetings but has been denied and the defendant questions if there are are such minutes.

The court also permits a document to be removed from the files of the case. The defendant at one time saw a small piece of paper in the file which paper indicated that it had something to do with the case. In fact. as the defendant recalls the document gave him the impression that maybe just one of the justices was deciding the matters and had indicated what was to be done on a small piece of paper approximately 1½ inches by 3 inches. note the defendant has alluded to the document several times in his motions and briefs and at no time has the court denied the existence of said

document nor its disappearance and therefore the court is apparently condoning such antics which are definitely contrary to the above secs. 251.14, 19.21 and 251.21 all of Wis. Stats., 1975 and 1977. More sloppiness? Stupidity? Coverup?

How does the court account for permitting the referee's appointment to expire at least twice and to renew and/or extend the appointment without a showing of just cause? Coverup? Stupidity? Sloppiness?

How does the Court entitle some documents "State of Wisconsin vs. James T. Conway" and other documents "In the Matter of the disciplinary action of James T. Conway" when the statutes state the matter shall be "the" State of Wisconsin vs. the defendant. Is the court reading the documents? Stupid? Cover up? Sloppiness?

How does the court permit the chief justice of said court to issue an order from the bench at a hearing without first consulting them? Are the rest of the justices a bunch of mice? Don't they know that they are to act as a group? Isn't it the usual practice for the court to listen to the argument and then decide the case after putting in their own thoughts and not for the chief justice to issue the decision from the bench in the middle of the hearing as done here?

How does the court justify the failure to set the matter for argument as per sec. 256.283 (8)?

How does the court justify the lack of requiring the Plaintiff to file briefs supporting its position before the court makes a decision in the Plaintiff's favor? Surely the defendant can't always be wrong? Isn't the court a theory of confrontation? Weren't the defendant's first motions and affidavits correct? And the rest of them clear?

How does the court permit a decision and order to issue when said decision and order indicates all the justices participated and after the defendant objects to one of the justices running hot and cold in that she participated in one order and not another, the court produces a so called "Mandate" which indicated that the said justice did not participate in the order which indicates she did. Is the court reading its orders? Is the court stupid? Is the court covering up? Is the court falsifying documents?

How does the court permit documents to be entered into the file without the proper authorization indicating the particular person has compared the document with the record and attests they are the same? Was the document issued in fact compared with the record? Was there a record to compare the document with? Why didn't the deputy clerk or whatever title she has sign the document where it was to be verified?

Now if all of the above hanky pank on the part of the Supreme Court of the State of Wisconsin is not sufficient for the Supreme Court of the United States to invoke its right to supervise the Supreme Court then we had all better quit.

The author can go on and cite cases like *U.S. v. Washington Post Co.*, 403 US 713 (1971) where the court found prior restraints against expression bears a heavy burden against its constitutional validity. Here the Supreme Court of the State of Wisconsin is saying to its members of the Bar "if you don't behave, do exactly as we do, say, as qe tell you to say, we will take your license away from you and as we also require you to have a license to practice law, the same license being granted by us, you will no longer be able to practice law

and therefore we shall remove your income from not only you but your family. Further we, the Supreme Court, shall make all rules and regulations in regards to any hearings in your violation of our selfmade and imposed rules whenever we wish." Restraint versus rights of freedom of speech? Restraints vs. Equality? Restraints vs. Fair Hearings and Treatments?

"There can be no question as to the proper presentation of a federal claim when the highest court passes on it" *Raley v. Ohio,* 360 US 423 (1958). The Supreme Court of the State of Wisconsin passed on the defendant's motions but how it got where it did nobody knows.

In *Police Dept. City of Chicago v. Mosley,* 408 US 92 (1972) the court said that the essence of forbidden censorship is content control; any restriction on expressive activity because of its content would completely undercut the profound national commitment to the principal that debate on public issues should be uninhibited, robust and wide open. How can the debate against the judicial system of the State of Wisconsin be wide open when the Supreme Court of the State of Wisconsin restricts the State Bar of Wisconsin through such tactics.

This case upon its face appears to be the most stupid appeal which the Supreme Court of the United States may have ever had but when looking at the matter it becomes one of the very most important. As it deals with the fact that the Supreme Court of the State of Wisconsin attempts to gain original jurisdiction over the Wisconsin Bar Association through the constitution of the state of Wisconsin and then proceeds to make its own rules, issue its own documents under those rules; interpret its own rules without written decisions thereby

devastating every sense of democracy by taking away every particle of free speech which any attorney may have. That such a procedure is so depressing and dictatorial that it removes any freedom which any individual may have as he is no longer able to hire an attorney who will disagree with the court for fear of the attorney losing his license to practice law and thus his income. In other words the court has created a state of nazism as Hitler once said "to control a nation you must gain control of the court and the press". This method is a clear method of controlling the courts.

The Supreme Court of the United States must review this case as this case really boils down to that of the control by the Supreme Court of the state of Wisconsin over the lawyers in said state wherein the said lawyers are reduced to a group of stooges pressed down to the life form of an amoebo, because the Supreme Court has, unless this case is reversed, exercised such dictatorial power, thus not only has the court taken away the defendant's right to freedom of speech and a fair and equitable hearing but the same rights will be taken away from all the attorneys in the state of Wisconsin and consequently all the citizens of the said state will also have their rights of a fair hearing and freedom of speech removed.

Sec. 256.283 (3) (b) states "the complaint *** it must be entitled in the name of the state of Wisconsin against the defendant *** it shall be presented to the chief justice of the Supreme Court without filing and he shall bring the matter before the Supreme Court.

Sec. 256.283 (4) "Order to Answer, Service, Filing.

The Supreme Court may by order require the defendant to answer to the complaint ***."

Sec. 256.283 (5) "Answer, Defense Procedures. The defendant ***. His answer to the complaint shall be served upon the plaintiff within 20 days ***."

Sec. 801.09 "Summons, Contents of. The summons shall contain: (2) A direction to the defendant, summoning and requiring defendant to serve upon the plaintiff's attorney, whose address shall be stated in the summons ***."

Now how can the Supreme Court read the complaint without noticing the absence of plaintiff's address or the attorney's address?

How can the Supreme Court issue its order requiring the defendant to answer when the Supreme Court does not state upon whom or where the defendant is to answer.

How can seven so called legal minds making a total of 14 legal eyeballs miss the two basic elements of any simple complaint and order? Incompetency? Sloppiness? The court not acting as a whole as required by statute?

The court attempts to use its own rule making powers to cover up its poor legal work. When the defendant filed his first affidavit and motion to dismiss the court merely changed its hat from that of original jurisdiction to that of the appellate jurisdiction and denied the defendant a hearing on said motion. Thus the court deprived the defendant of a hearing contrary to the 14th Amendment to the United States Constitution. How better methods can the court use to cover its mistakes?

Next the court completely ignores 251.14 which is one of its own rules and which section states as follows:

"Decision to be Written: Part of Record: Certified United States Court. Printed for justices: The Supreme Court shall give their decisions in all cases in writing, which shall be filed with the other papers in the case and said decision and all decisions and opinions delivered by the court. *** or proceedings pending in said court shall remain in the office of the clerk. Every written opinion or decision of the Supreme Court which shall have been filed with the clerk shall constitute and be held a part of the record in the action or proceeding in which it shall have been given and filed and shall be certified therewith to any court of the United States ***."

Sec. 251.93 Wis. Stats. provides the only exception to sec. 251.14 and sec. 251.93 states "Rule (Affirmation without opinion) In cases where the order of judgment is affirmed, opinions will not hereafter be written ***".

Now there is no prior opinion by another court to affirm so why doesn't the Supreme Court of the State of Wisconsin have to issue written decisions and opinions as required by sec. 251.14 Wis. Stats. when issuing the various documents in response to the defendant's motion?

Next the court permits a piece of paper to be removed from the file. Said document as the defendant recalls was a piece of paper approximately 1-1/2x3 inches and had a few chicken scratches thereon which the defendant recalls pertained to the case. Now how can the court directly and purposely permit acts contrary to sec. 251.14, secs. 19.21 and 251.21 all of Wis. Stats. 1975 to occur in its own court? Sloppy? Coverup? Stupidity?

How does the court expect to comply with sec. 251.14 Wis. Stats. in certifying the documents to the United States Supreme Court when it permits at least one document which the defendant knew about to be missing?

How does the court account for permitting the referees appointment to expire at least twice and for the supreme court to renew and/or extend the appointment without a showing of just cause?

How does the court extend or renew or reappoint the referee after the referee's original appointment has expired without requiring the referee to file another oath of office?

How does the court entitle some documents "state of Wisconsin v. Conway" as required by sec. 256.283 when other documents to be entitled "in the matter of the disciplinary procedures of James T. Conway." Is the court reading the documents? Is the court reading the statutes? Is the court just plain stupid?

How does the court permit the chief justice to issue an order from the bench without first consulting with the other judges? Isn't it the purpose of the court to hear the argument and then as a body to make decision and orders?

How does the court justify the failure to set the matter for argument as per Wis. Stats. 256.283 (8)?

How does the Court justify the lack of requiring the plaintiff to file a brief supporting his position against the defendant before the court makes decision in the plaintiff's favor?

How does the court permit a decision and order to issue when it indicates all justices participated and after the defendant complains about the justice running hot and cold on an issue (not participating in one order and participating in another order) the court produces a so called mandate (A-Ap.p. 121) on file in said court which indicates the justice did not participate? Did the justices read the decision filed October 18, 1977 (A-Ap.p. 117)? Was the mandate actually filed in the court on the date indicated or was it placed in the court afterwards?

How does the court permit the documents to issue without the proper authorization indicating that the particular person has compared the documents with the record and attested that they are the same (A-Ap.p. 115)? Was a document issued in fact compared with the record? Was there a record to compare the document with?

Now if all the above hanky pank upon the part of the Supreme Court of the State of Wisconsin is not sufficient to require the United States Supreme Court to uphold the United States Constitution, the amendments thereto and the bill of rights, it surely must give the United States Supreme Court the power under its right of supervision of state courts.

The Supreme Court must review the state supreme court's actions because it effects future activities of every resident of the state of Wisconsin and also possibly the United States Wisconsin Law provides that all attorneys must be a member of the Wisconsin Bar Association to practice law in said state (Mr. George Meany would love such a closed shop law). Therefore if the attorney does not bow to the feet of the court his

license could be removed and the citizens of the State of Wisconsin and the U.S. cannot be fairly represented under such conditions.

Further the matter must be reversed as the court has exercised such power that it is restraining freedom of speech of all parties. The appellant could cite many many cases in regards to said matters but feels that the general knowledge of the Supreme Court of the United States should be sufficient to recognize such matters. However, just for two cases the appellant cites *Pickering vs. Board of Education,* 391 U.S. 563 (1968) "the United States Supreme Court has consistently ruled that any system of prior restraint against expression bears a heavy burden against the constitutional validity," also quoted in *United States v. Washington Post Co.,* 403 U.S. 713 (1971).

In conclusion the appellant feels the United States Supreme Court must review the said matter.

CONCLUSION

There is no question that the Supreme Court of the United States must take jurisdiction of the case because the outcome affects the future of every citizen of the State of Wisconsin and if other state courts take the same tact as Wisconsin did every citizen of the United States could be affected.

The author could cite volumes of cases supporting his position but feels the best argument is based upon the common sense doctrine that nobody whether human, politic or corporate has the absolute right to determine a matter without a reasonable right of the offended party to appeal at a reasonable cost and

practice. Imagine the cost to the author if he had to hire an attorney at the rate of at least $50.00 per hour? How much justice is deprived when the court knows or thinks it knows the cost will be so great that the aggrieved party will not appeal so we shall slaughter him?

The author of this Jurisdictional Statement has authorized the printing company to forward three complimentary copies to Mr. Robert H. Bichler at 840 Lake Avenue, P.O. Box 516, Racine, Wisconsin 53401. The undersigned in no way acknowledges Mr. Bichler as an attorney as the original documents served upon the undersigned do not indicate him as such.

Respectfully submitted,

JAMES T. CONWAY
3814 N. Townhall Road
Janesville, Wisconsin 53534

APPENDIX

IN THE SUPREME COURT OF THE
STATE OF WISCONSIN

STATE OF WISCONSIN, Appellee

vs. #75-748-D

JAMES T. CONWAY, Appellant

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that James T. Conway, the appellant above named, appeals to the Supreme Court of the United States from the final judgment and order issued by the Supreme Court of the State of Wisconsin filed on October 18, 1977 and the judgment and order issued by the said State Supreme Court and filed on January 3, 1978 denying the said appellant a hearing and/or rehearing, thus making the judgment filed on October 18, 1977 final.

This appeal is taken pursuant to 28 U.S.C. 1257 (2) and U.S.C. 1257 (3)

/s/ James T. Conway
JAMES T. CONWAY
3814 N. Townhall Road,
Janesville, Wisconsin
53545

Special Appearance

STATE OF WISCONSIN IN SUPREME COURT

State of Wisconsin,
Plaintiff,

v.

James T. Conway,
Defendant.

ORDER TO ANSWER

Upon complaint made pursuant to Sec. 256.283 (3) of the Wisconsin Statutes asking for disciplinary action against the above-named defendant, an attorney of this state,

IT IS ORDERED that the said defendant, James T. Conway, be, and he is hereby required to appear and answer or demur to the complaint herein within twenty days after the service upon him of a copy of said complaint and of this order, and to file his pleading or motion in the office of the Clerk of the Supreme Court within ten days after the time limited to plead.

Dated this 4th day of March, 1976.

BY THE COURT:

/s/ Robert O. Uehling
Robert O. Uehling
Clerk of Supreme Court

STATE OF WISCONSIN IN SUPREME COURT

STATE OF WISCONSIN,
Plaintiff,

v.

JAMES T. CONWAY,
Defendant.

COMPLAINT

TO THE HONORABLE JUSTICES OF THE SUPREME COURT:

The Board of State Bar Commissioners of the State of Wisconsin respectfully alleges:

1) That the Board of State Bar Commissioners is a statutory body organized and existing under Chapter 256 of the Wisconsin Statutes and is now acting as such.

2) That the defendant, James T. Conway, is an attorney duly licensed to practice law in the State of Wisconsin and all other courts of the State of Wisconsin since June 21, 1957; at the times herein pertinent, the defendant had law offices in Rock County, Wisconsin, initially at Edgerton and Brodhead, Wisconsin, and later at rural Janesville, Wisconsin.

3) Upon information and belief, the defendant has been guilty of a course of neglectful and unprofessional conduct in the handling of legal matters entrusted to him; among the instances of such conduct are the following:

a) In October of 1964, the defendant undertook to represent the personal representative in the Estate of

George W. Blanchard and he served as attorney for the personal representative until his removal on August 22, 1974. One of the assets in the estate was one-half interest in a section of land in the State of Montana. In April of 1968, a quiet title action was brought in Montana by a Mr. Magelssen who claimed right to the section by virtue of adverse possession. The defendant, on behalf of he estate, retained Attorney Meisburger of Forsyth, Montana, to defend the action. Attorney Meisburger successfully defended the action in both the trial court and in the Montana Supreme Court. On July 31, 1969, Attorney Meisburger sent to defendant a statement for services and expenses in the amount of $1,073.62, and arising from the defense of the quiet title action. The defendant failed to submit the statement to the personal representative for payment and ignored all requests from Attorney Meisburger for payment. In October, 1969, Attorney Meisburger sued the estate for his fees and expenses and sought foreclosure of the Montana land to pay such anticipated judgment. A copy of his lis pendens and pleadings were sent to defendant. The personal representative was served on October 18, 1969, and within several days thereof, she took the pleadings to the defendant. The defendant advised her that he would take care of it. Defendant failed to appear and failed to cause anyone to appear in the action. On January 26, 1970, a default monetary judgment in the amount of $1423.62 and a default foreclosure judgment against said property was entered. The property was sold at a Sheriff's sale and a Sheriff's deed was given on March 21, 1971. The defendant did not tell the personal representative of the loss of the Montana property.

b) In connection with the handling of the Blanchard Estate, the defendant informed the personal

representative that no Federal or State fiduciary income tax returns need be filed. As a result of such advice, no returns were filed and penalties and interest were assessed against the estate for the failure to file the return.

c) While serving as attorney for the personal representative in the Blanchard and on or about September 22, 1969, there was paid to the defendant $1250, which represented the balance owing to the estate on a land contract interest. The defendant did not cause such monies to be deposited until on or about January 30, 1970, and thereafter and through the time of his removal as attorney in August of 1974, the defendant failed to deliver such funds to the personal representative.

d) The defendant as attorney for the personal representative neglected and has caused undue delay in the Estate of Gladys R. Lemmons as follows: the Petition for Administration was filed on June 24, 1968; on November 2, 1973, the court sent a letter to the defendant informing him that final judgment should be entered in the estate no later than December 2, 1973; on April 29, 1975, an Order to Show Cause was issued and served on the defendant requiring him to show cause on June 5, 1975, why final judgment had not been entered in the estate; on June 5, 1975, the court gave the defendant 30 days within which to close the estate; on January 9, 1976, the court appointed other counsel to conclude the estate.

e) The defendant as attorney for the personal representative has neglected and has caused undue delay in the Estate of Roy Farman as follows: the Petition for Administration was filed on June 6, 1968; on November 2, 1973, the court sent a letter to the

defendant informing him that final judgment had to be rendered no later than December 2, 1973; on April 29, 1975, an Order to Show Cause was issued and served on the defendant requiring him to show cause on June 5, 1975, why final judgment had not been entered; on June 5, 1975, the defendant was given 30 days to close the estate; on August 1, 1975, the judge informed the defendant that the matter was to be concluded by September 1, 1975; on January 9, 1976, the court appointed other counsel to conclude the estate.

f) The defendant, as attorney for the personal representative has neglected and has caused undue delay in the Estate of Marvine Butler as follows: the Petition for Administration was filed on August 30, 1967; on November 2, 1973, the court sent notice informing the defendant that final judgment was to be entered by December 2, 1973; on April 29, 1975, an Order to Show Cause was issued and served on the defendant requiring him to show cause on June 5, 1975, why final judgment had not been entered; on June 5, 1975, the court gave the defendant 60 days to conclude the estate; on January 9, 1976, the court appointed other counsel to conclude the estate.

g) The defendant, as attorney for the personal representative has neglected and has caused undue delay in the Estate of Walter Burandt as follows: the Petition for Administration was filed on September 17, 1969; on November 2, 1973, the court sent a letter to the defendant informing him that final judgment had to be entered no later than December 2, 1973; on April 29, 1975, an Order to Show Cause was issued and served on the defendant requiring him to show cause on June 5, 1975, why judgment had not been entered in the estate; on June 5, 1975, the personal representative retained other counsel to represent him in concluding the estate.

SECOND CAUSE OF ACTION

4) Upon information and belief, after receiving a complaint from the personal representative in the Blanchard Estate, the Grievance Committee for District No. 12 of the State Bar of Wisconsin mailed a Complaint to the defendant on April 21, 1975, together with a Notice of Complaint requiring answer within 15 days; defendant did not answer the Complaint. On May 15, 1975, a hearing was held on the Complaint by the Grievance Committee; the defendant appeared at the hearing and informed the committee that he refused to discuss the grievance and refused to answer any questions relating to the Complaint. Such conduct on the part of the defendant was unprofessional.

WHEREFORE, plaintiff prays that the defendant, James T. Conway, be ordered to answer this complaint and if upon trial of the issues he be found guilty of the matters herein charged that he be properly disciplined therefor by judgment of this court and that such order and relief be granted in the premises as to the court may be just and proper.

/s/ Robert H. Bichler,
Robert H. Bichler, Counsel
Board of State Bar
Commissioners

/s/ Stewart G. Honeck
Stewart G. Honeck, President
Board of State Bar
Commissioners

STATE OF WISCONSIN)
(SS
COUNTY OF MILWAUKEE)

Stewart G. Honeck, being first duly sworn says that

he is President of the Board of State Bar Commissioners; that he makes the foregoing Complaint for and on behalf of the Board, being duly authorized to do so; that he has read the foregoing Complaint and knows the contents thereof and that the same is true to his knowledge, except as to matters therein stated on information and belief and as to those matters, he believes it to be true.

/s/ Stewart G. Honeck
Stewart G. Honeck

Subscribed and sworn to before me
this *1* day of *March,* 1976.
/s/ Shirley S. Abrahamson
Notary Public, Dane Co., Wisconsin
My Commission: *is permanent*

Office of the Clerk

SUPREME COURT

STATE OF WISCONSIN

ROBERT O. UEHLING
CLERK

Madison, May 3, 1976

To Mr. Robert H. Bichler
840 Lake Ave.
P. O. Box 516
Racine, WI 53401

Mr. James T. Conway
3814 N. Townhall Rd.
Janesville, WI 53534

Sir:—The Court today announced decision in your case as follows:

#75-748 - State of Wisconsin v. James T. Conway

An order having been issued on the 1st day of April, 1976, requiring the defendant to appear and answer or demur to the complaint, and the defendant having made return thereto by filing a motion to dismiss, and the Court having considered the reply of the plaintiff,

IT IS ORDERED that the motion to dismiss is denied;

IT IS FURTHER ORDERED that defendant file responsive pleadings to the complaint with the Clerk of Supreme Court, Room 231 East, State Capitol, Madison, WI 53702, and timely serve copies of said pleadings on counsel for the Board of State Bar Commissioners, Robert H. Bichler, 840 Lake Ave., P. O. Box 516, Racine, WI 53401, on or before the 24th day of May, 1976.

~~The opinion of the Court has been filed this day~~

Respectfully yours,
ROBERT O. UEHLING

Clerk of Supreme Court.

Office of the Clerk

SUPREME COURT

STATE OF WISCONSIN

ROBERT O. UEHLING
CLERK

Madison, July 12, 1976

To Mr. Robert H. Bichler
840 Lake Avenue
P.O. Box 516
Racine, WI 53401

Mr. James T. Conway
3814 N. Townhall Rd.
Janesville, WI 53534

Appendix
110 - 111

Sir:—The Court today announced decision in your case as follows:

#75-748 - State of Wisconsin v. James T. Conway

The motion of plaintiff that the document denominated by the defendant as "an affidavit and motion" be stricken as sham and frivolous as containing irrelevant and scandalous matters and on defendant's failure to file a pleading responsive to the complaint, and to grant a motion to enter default judgment in favor of plaintiff against defendant having been considered by this Court,

IT IS ORDERED that the plaintiff's motion to dismiss the defendant's "affidavit and motion" is granted.

IT IS FURTHER ORDERED that a default judgment in favor of plaintiff is granted unless defendant files a responsive answer to the complaint with the Clerk of Supreme Court, Rm. 231 East, State Capitol, Madison, WI 53702, and timely serve copies of said answer on counsel for the Board of State Bar Commissioners, Robert H. Bichler, 840 Lake Avenue, P.O. Box 516, Racine, WI 53401, on or before the 26th day of July, 1976.

The opinion of the Court has been filed this day.

Respectfully yours,
ROBERT O. UEHLING

Clerk of Supreme Court.

STATE OF WISCONSIN IN SUPREME COURT

#75-748 (August Term, 1975)

State of Wisconsin,
Plaintiff,

v.

James T. Conway,
Defendant.

This Court on May 3, 1976, having denied defendant's motion to dismiss the complaint herein and having ordered defendant to plead to the complaint, and the defendant having filed another motion to dismiss with supporting affidavit and the plaintiff having filed a motion to strike defendant's motion to dismiss as sham, frivolous, and as containing irrelevant and scandalous matters and to enter default judgment against the defendant, and the Court being fully advised,

IT IS ORDERED THAT:

1. Defendant's motion and affidavit be stricken.

2. The defendant show cause in person at a hearing to be held in the Supreme Court Room at 1:30 p.m. on Wednesday, September 8, 1976, why a default judgment revoking defendant's license to practice law should not be entered.

Dated at Madison, Wisconsin, this *3* day of August, 1976.

BY THE COURT:

By */s/ Bruce F. Beilfuss*
Chief Justice

BE IT REMEMBERED, That at a term of the Supreme Court of the State of Wisconsin, begun and held at the Capitol, in Madison, the seat of government of said State, on the Second Tuesday of August A.D. 19 76

on the 15th day of October A. D. 19 76,

the following proceedings were had:

State of Wisconsin,

Plaintiff,

v.

James T. Conway,

Defendant.

Original Action

Discipline

County, State of Wisconsin

Pursuant to Section 256.283(6), Statutes,

IT IS ORDERED that Hon. Francis H. Wendt, of Racine, Wisconsin, be, and he is hereby, appointed as Referee in the above-entitled case to try the issues and report his findings of fact and recommendations to the Court within sixty days from the date of this order.

Marilyn L. Graves, Deputy

STATE OF WISCONSIN } ss.
Supreme Court

I, [redacted] Clerk of the Supreme Court of the State of Wisconsin, do hereby certify that I have compared the above and foregoing with the original order and judgment of the Court in the above entitled cause, and that it is a correct transcript therefrom, and of the whole thereof.

In Testimony Whereof, I have hereunto set my hand and affixed the seal

STATE OF WISCONSIN IN SUPREME COURT

No. 75-748-D

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST JAMES T. CONWAY, ATTORNEY AT LAW

PER CURIAM. James T. Conway was admitted to practice in this state on June 21, 1957. The Board of State Bar Commissioners on April 7, 1976, filed a complaint against Conway alleging that he was guilty of neglectful and unprofessional conduct in the handling of five separate estates.

After the complaint was filed, Conway did not answer the complaint but filed several motions to dismiss, all of which were denied by this Court. On July 12, 1976, this Court ordered that a default judgment be entered against Conway unless he filed a responsive pleading by July 26, 1976. This prompted another motion to dismiss by Conway.

On August 3, 1976, this Court issued an order for Conway to show cause at a hearing on September 8, 1976, (subsequently rescheduled for September 7, 1976) why default judgment should not be entered against him. After this hearing, at which Conway appeared and objected to the jurisdiction of this Court, an order was issued on September 8, 1976, directing Conway to answer the complaint within twenty days or the Court would proceed by default. Conway filed a document entitled "Special Appearance, Special Answer, Answer, and Affirmative Defense" on October 11, 1976, and Francis H. Wendt was then appointed referee.

Following proceedings before the referee during which Conway appeared but did not participate, the

referee filed a report in which he found that Conway was guilty of unethical and unprofessional conduct in violation of DR 6-101 and DR-102 (B) (1) (4) of the Code of Professional Responsibility, was unprofessional and uncooperative in the proceedings, and showed no desire to rehabilitate himself. The referee concluded that Conway's license to practice law be revoked for an indefinite period and that Conway be required to pay the expense of the disciplinary proceeding.

The Board of State Bar Commissioners filed a motion that the report and recommendations of the referee be approved and that judgment be entered thereon. Conway filed a motion to dismiss the proceedings and filed with it a memorandum raising a number of objections to the form of various pleadings and orders issued in this proceeding. On May 23, 1977, a brief on the merits was filed by the Board, but no brief on the merits has been filed by Conway. The Board on August 3, 1977, moved this Court to decide the case without receiving a brief from Conway. On September 7, 1977, this Court issued an order denying Conway's motion to dismiss and granting the Board's motion to decide the matter on the merits without a brief from Conway unless within thirty days of the date of the order Conway filed a brief on the merits. Conway has not filed a brief but has submitted a letter in which he states that any further briefs would be superfluous and redundant. In view of this response to our September 7 order, we will act on the report and recommendations of the referee without a brief on behalf of Conway.

The unprofessional conduct found by the referee consisted of the failure by Conway to act properly and in a timely manner in serving as attorney for the

personal representative in five separate estates. In four of the estates, Blanchard, Lemmons, Farnum, and Butler, Conway was removed by the probate court as attorney for the personal representative. In the Burandt estate, the personal representative retained new counsel after Conway failed to close the estate. In the Blanchard estate, the personal representative testified that the delay in closing cost the estate approximately $15,000. Conway has made no denial of the substance of the allegations against him.

On the basis of the record before us, we have no alternative but to accept the recommendation of the referee. The combination of Conway's unprofessional conduct in handling the five estates referred to above, plus his conduct during these proceedings both in this Court and before the referee, clearly support the conclusion that Conway's license to practice law should be revoked for the protection of the public. *State v. McNamara,* 68 Wis. 2d 701, 229 N.W. 2d 698 (1975).

IT IS FURTHER ORDERED AND ADJUDGED that the license of James T. Conway to practice law in this state be and is hereby revoked and annulled for due cause and his name removed from the roll of lawyers of this Court; that the State Bar of Wisconsin notify the courts of record of this state of this order by sending each a copy thereof; that he notify his clients now represented by him in all matters involving the practice of law, or all matters pending in any court of this state, that his license to practice law in this state has been revoked.

IT IS FURTHER ORDERED AND ADJUDGED that James T. Conway pay the costs and expenses of these proceedings not exceeding $1,000.

MANDATE SHEET PER CURIAM OCTOBER 18, 1977

No. 75-748-D - August Term, 1977

In the Matter of the Disciplinary

Proceedings Against James T. Conway,

Attorney at Law

IT IS FURTHER ORDERED AND ADJUDGED that the license of James T. Conway to practice law in this state be and is hereby revoked and annulled for due cause and his name removed from the roll of lawyers of this Court; that the State Bar of Wisconsin notify the courts of record of this state of this order by sending each a copy thereof; that he notify his clients now represented by him in all matters involving the practice of law, or all matters pending in any court of this state, that his license to practice law in this state has been revoked.

IT IS FURTHER ORDERED AND ADJUDGED that James T. Conway pay the costs and expenses of these proceedings not exceeding $1,000.

Justice ABRAHAMSON took no part in the above case.

MANDATE SHEET

PER CURIAM

OCTOBER 18, 1977

FILED

OCT 18 1977

ROBERT O. UEHLING
CLERK OF SUPREME COURT
MADISON, WISCONSIN

CUSTODY OF OFFICIAL PROPERTY

19.21 Custody and delivery of official property and records. (1) Each and every officer of the state, or of any county, town, city, village, school district, or other municipality or district, is the legal custodian of and shall safely keep and preserve all property and things received from his predecessor or other persons and required by law to be filed, deposited, or kept in his office, or which are in the lawful possession or control of himself or his deputies, or to the possession or control of which he or they may be lawfully entitled, as such officers.

251.08 Appellate jurisdiction. The supreme court shall have and exercise an appellate jurisdiction only, except when otherwise specially provided by law or the constitution, which shall extend to all matters of appeal, error or complaint from the decisions or judgments of any of the circuit or county courts and shall extend to all questions of law which may arise in said courts upon a motion for a new trial, in arrest of judgment, or in cases reserved by said courts.

251.11 Supreme court; Judgments; rules; printed case. (1) The supreme court shall be vested with all power and authority necessary for carrying into complete execution all its judgments and determinations in the matters aforesaid and for the exercise of its jurisdiction as the supreme judicial tribunal of the state, agreeably to the usages and principles of law; and to make, annul, amend, or modify the rules of practice therein from time to time as it shall see fit, not inconsistent with the constitution and laws.

(2) The supreme court may by rule provide that no party in any action or proceeding before the supreme

court shall be required to prepare and furnish any printed case or other printed abridgment of the record or of the proceedings theretofore had.

251.12 Issues of fact and assessments of damages. Whenever an issue of fact shall be joined or an assessment of damages by a jury be necessary in any action commenced in the supreme court the court may, in its discretion, send the same to some circuit court and it shall be there determined in the same manner as other issues of fact are tried or assessments made, and return be made thereof as directed by the supreme court.

251.14 Decisions to be written; part of record; certified to United States court; printed for justices. The supreme court shall give their decisions in all cases in writing, which shall be filed with the other papers in the case; and such decisions and all decisions and opinions delivered by the court or any justice thereof in relation to any action or proceeding pending in said court shall remain in the office of the clerk. Every written opinion or decision of the supreme court which shall have been filed with the clerk shall constitute and be held a part of the record in the action or proceeding in which it shall have been given and filed and shall be certified therewith to any court of the United States to which such action or proceeding or the record thereof may be in any manner certified or removed. The state printer shall print for the use of the justices so many of such decisions and opinions, and at such times, as shall be directed by them.

251.18 Rules of pleading and practice. The state supreme court shall, by rules promulgated by it from time to time, regulate pleading, practice and procedure in judicial proceedings in all courts, for the purpose of simplifying the same and of promoting the speedy

determination of litigation upon its merits. Such rules shall not abridge, enlarge or modify the substantive rights of any litigant. The effective dates for all rules adopted by the court shall be January 1 or July 1, but in no case shall a rule become effective until 60 days after its adoption. All such rules shall be printed by the state printer and paid for out of the state treasury, and the court shall direct the same to be distributed as it may deem proper. All statutes relating to pleading, practice and procedure may be modified or suspended by rules promulgated pursuant hereto. No rule modifying or suspending such statutes shall be adopted until the court has held a public hearing with reference thereto. The court may establish days certain in each year at which dates the public hearings shall be held. Said hearings shall be held at 1:30 o'clock in the afternoon, or at such other time as the court shall direct. Notice of public hearings shall be given by publication of a class 3 notice, under ch. 985, the expense of the publication to be paid out of the state treasury. Notice shall also be given in the official publication of the state bar of Wisconsin, said notice to be published not more than 60 days, not less than 30 days, before the date of hearing. The state bar of Wisconsin shall not charge the state treasury for publication of this notice. Proposed rules, including changes, if any, in existing rules, shall be set forth in full in the notice. Nothing in this section shall abridge the right of the legislature to enact, modify or repeal statutes or rules relating to pleading, practice or procedure. The judicial council shall act in an advisory capacity to assist the court in performing its duties under this section.

251.21 Duties of clerk. It shall be the duty of the clerk of the supreme court:

(1) To have and keep the custody of the seal of the court and all books, records and papers thereof, and of all writs, proceedings and papers in any action therein.

(2) To receive and safely keep and pay over or deliver, according to law or the order of the court, all moneys or property deposited or placed in his possession as such clerk.

(3) To furnish to any person requiring the same certified copies of the papers, records, opinions and decisions in his office, upon receiving his fees therefor.

(4) To furnish to the reporter copies of all opinions required by him.

(5) To issue writs and process to persons entitled to the same by law or the rules and practice of the court.

(6) To make a calendar of cases for argument at such time and in such manner and form as the court shall direct.

(7) To give certificates to attorneys on their admission to practice in the court, on receiving the fees therefor; but the fee for a certificate of admission of any graduate of the law department of the University of Wisconsin or Marquette University at Milwaukee shall not exceed $1.

(8) To perform all other duties required by law or the rules and practice of the court or which may be directed by the court.

251.93 Rule (Affirmance without opinion). In cases where the order or judgment is affirmed, opinions will not hereafter be written unless the questions involved

be deemed by this court of such special importance or difficulty as to demand treatment of an opinion. A table of the cases affirmed without opinion, containing the titles, statement of the nature of each, the courts from which they came, dates there and here decided, and names of respective counsel, shall be printed in the Reports.

256.283 Disciplinary action against attorneys. (1) SUSPENSION OR REVOCATION OF LICENSE. The authority or license granted to any person to practice law in this state may be suspended or revoked and annulled in the manner prescribed in this section.

(3) INITIATION OF DISCIPLINARY ACTION. (a) A written complaint against any attorney may be filed by:

1. The board of state bar commissioners. Such complaint may be verified by its president or in his absence by the vice president, or in their absence by any member of the board designated by resolution;

2. Three residents of the state, one of whom shall be the district attorney of the county where the misconduct complained of occurred;

3. A county bar association having as members more than 500 attorneys licensed to practice law in this state, by the president in its name upon resolution of its governing body, but only against an attorney practicing, residing or employed in its county;

4. The state bar of Wisconsin upon resolution of its board of governors. Such complaint may be verified by its president or in his absence by the vice president.

(b) The complaint may be either positive, or on information and belief, and must be signed and verified

by the oath or affirmation of those who make it. It must be entitled in the name of the state of Wisconsin against the defendant, and be addressed to the justices of the supreme court, contain the name and residence of the defendant and state with clearness and certainty the facts constituting the alleged misconduct of the defendant. It shall be presented to the chief justice of the supreme court without filing and he shall bring the matter before the supreme court.

(4) ORDER TO ANSWER, SERVICE, FILING. The supreme court may by order require the defendant to answer the complaint and shall cause the complaint and order to be served upon him in the same manner as a summons. The original complaint and order, with proof of service, shall forthwith, after service, be forwarded to the clerk of the supreme court who shall then file the complaint and order in his office. If the attorney cannot be found as indicated by the sheriff's return of service, the complaint, order and return shall be filed with the clerk of the supreme court and service of the complaint and order to answer, or any other notice required by this section, may be had by mailing a copy thereof to the defendant at the last address furnished by him to the state bar of Wisconsin. Such mailing shall constitute personal service.

(5) ANSWER, DEFENSE PROCEDURES. The defendant may file a written answer and may file an affidavit of prejudice as provided in sub. (6). His answer to the complaint shall be served on the plaintiff within 20 days after service upon him of the complaint and filed with the clerk of the supreme court within 5 days after service on the plaintiff. Any answer shall specifically admit or deny the allegations of the complaint. It may incorporate the objection that the

supreme court does not have jurisdiction, or that the acts or omissions alleged in the complaint do not constitute misconduct which would warrant the imposition of discipline.

(6) REFEREE, HEARING BEFORE, REPORT. Upon the filing of the defendant's answer the supreme court shall appoint a referee to hear the cause, or so much thereof as the court may determine to refer, and to report findings to the court, together with recommendations as to the judgment to be made, if such recommendations are requested by the court. The referee shall promptly hold a prehearing conference similar to the provisions of s. 802.10 (2) and for the purposes therein specified. The referee shall give to the defendant and counsel for the board of state bar commissioners or the counsel appointed for the parties making the complaint at least 20 days' notice in writing of the time and place of hearing. The proceeding shall be in the nature of a reference, the authority of the referee to be defined by the supreme court and where no special authority or procedure is specified in the order of reference, the hearing shall be governed by the rules and practice in equitable actions, except as different procedure is herein prescribed. The hearing shall be held in the county of the defendant's residence or in the case of a nonresident, in such county as is directed by the supreme court, provided that during its progress the sittings may, in the discretion of the referee, be changed as often as may be found convenient from one county to any other. Upon motion by counsel for the board made at any time prior to the conclusion of the hearing, and upon just cause, the referee may permit the amendment of the complaint to include matters brought to the board's attention after the filing of the complaint and upon counsel filing an affidavit that counsel has had

prior approval of such amendment by 3 or more board members. If such motion be granted, the referee shall grant such adjournments and further orders as the referee deems necessary in the interest of justice. All proceedings shall be recorded verbatim by a stenographer or reporter to be appointed by the referee, and together with all the testimony of witnesses shall be transcribed, certified and filed with other papers in the case.

(8) NOTICE TO DEFENDANT; ISSUE JOINED; TRIAL; JUDGMENT. Upon the filing of the report of the referee in the supreme court which shall include findings of fact and recommendations, if any, notice thereof shall be given by the clerk of the supreme court to the defendant or the attorney who appeared for the defendant and to the counsel for the board of state bar commissioners or for the parties making the complaint. All objections or motions which either party shall see fit to make thereto shall be filed within 20 days of the date of said notice. Within 40 days after the filing of objections or motions, the plaintiff shall serve on the defendant and file its brief and appendix, in accordance with ss. 251.181 and 251.34 to 251.38. The defendant shall, within 30 days after service of plaintiff's brief and appendix, serve and file a brief and supplemental appendix (if any). The plaintiff may serve and file a reply brief within 15 days after service on it of the defendant's brief. The cause shall be placed on assignment for oral argument. By the judgment the court may adjudge as follows:

(a) Absolute revocation or annulment of defendant's license to practice law in the state of Wisconsin.

(b) Temporary suspension of license on such conditions as to the court shall seem just.

(c) Censure or reprimand.

(d) The judgment may contain such other provisions as the court may deem proper, including a requirement that the defendant pay all or a part of the expenses allowed under sub. (9). If such expenses are not paid by the defendant within a reasonable time, they shall be collected by the district attorney of the county where defendant resides, and by him paid into the supreme court for deposit in the state treasury.

(9) EXPENSES OF PROCEEDINGS. The expenses of the proceedings, including the witnesses', reporter's, clerk's, sheriff's, referee's and other officers' fees, and fees and disbursements of plaintiff's counsel, when approved by the supreme court, shall be certified by the chief justice to the department of administration, which shall thereupon draw a warrant on the state treasurer for the respective amounts allowed in favor of the parties named as entitled thereto. Such amounts shall be charged to the appropriation provided in s. 20.680 (4) (b).

(10) OATH OF COMMISSIONERS' ATTORNEY, REFEREE. The counsel for the state bar commissioners or for the parties making the complaint and the referee herein provided for shall take and subscribe and file with the clerk of the supreme court the usual and customary oath of office.

256.281 Board of state bar commissioners. (1) COMPOSITION. The board of state bar commissioners shall consist of 9 members having terms of 7 years expiring the 2nd Tuesday of August. Two members of the board shall be non-lawyers appointed by the

supreme court. Except for the 2 non-lawyer members. the supreme court shall appoint the members so that no 2 terms shall expire in the same year. Four members of the board shall constitute a quorum, for the transaction of business. The non-lawyer members of the board shall participate in all board functions except the conduct and grading of bar examinations. Motions and resolutions may be adopted by a majority vote of the members present, providing a quorum is present. The clerk of the supreme court shall be secretary of the board but shall not be a member thereof.

(2) DUTIES. The board is charged with the examination of applicants for admission to the bar under s. 256.28 (2) and with investigation and prosecution of complaints against attorneys and such other duties as may be assigned to it by the supreme court.

(3) COUNSEL FOR BOARD. The supreme court as occasion may require shall appoint a competent attorney or attorneys who are members of the bar to act as counsel for the state bar commissioners or for the parties making a complaint under s. 256.283 (3), or for any party authorized by statute to investigate the conduct of any attorney, and to conduct investigations and prosecute disbarment proceedings. The district attorney of the county of the defendant's residence shall in his county render such assistance in investigations and preparation for trial as such counsel shall reasonably request.

(4) COMPENSATION. Each member of the board shall be paid $25 per day when actually and necessarily engaged in his duties and in addition his actual and necessary expenses. Counsel for the board shall be paid compensation as fixed by the court.

(5) RULES. The supreme court shall, from time to time, promulgate rules relating to the qualifications of applicants for examination, their courses of study and the standard of acquirements to entitle them to admission to practice law in this state, and such other rules relating to the examination of applicants for admission to the bar as the court deems necessary or desirable. The board may adopt such rules and forms relating to its procedure and holding and conducting its meetings and investigation as it deems necessary.

801.02 Commencement of action. (1) A civil action in which a personal judgment is sought, other than certiorari, habeas corpus, mandamus or prohibition, is commenced as to any defendant when a summons and a complaint naming the person as defendant are filed with the court, provided service of an authenticated copy of the summons and of the complaint is made upon the defendant under this chapter within 60 days after filing.

(2) A civil action in which only an in rem or quasi in rem judgment is sought is commenced as to any defendant when a summons and a complaint are filed with the court, provided service of an authenticated copy of the summons and of either the complaint or a notice of object of action under s. 801.12 is made upon the defendant under this chapter within 60 days after filing.

(3) The original summons and complaint shall be filed together. The authenticated copies shall be served together except:

(4) No service shall be made under sub. (3) until the action has been commenced in accordance with sub. (1) or (2).

801.04 Jurisdictional requirements for judgments against persons, status and things. (1) JURISDICTION OF SUBJECT MATTER REQUIRED FOR ALL CIVIL ACTIONS. A court of this state may entertain a civil action only when the court has power to hear the kind of action brought. The power of the court to hear the kind of action brought is called "jurisdiction of the subject matter". Jurisdiction of the subject matter is conferred by the constitution and statutes of this state and by statutes of the United States; it cannot be conferred by consent of the parties. Nothing in this title affects the subject matter jurisdiction of any court of this state.

(2) PERSONAL JURISDICTION. A court of this state having jurisdiction of the subject matter may render a judgment against a party personally only if there exists one or more of the jurisdictional grounds set forth in s. 801.05 or 801.06 and in addition either:

(a) A summons is served upon the person pursuant to s. 801.11; or

(b) Service of a summons is dispensed with under the conditions in s. 801.06.

801.08 Objection to personal jurisdiction. (1) All issues of fact and law raised by an objection to the court's jurisdiction over the person or res as provided by s. 802.06 (2) shall be heard by the court without a jury in advance of any issue going to the merits of the case. If, after such a hearing on the objection, the court decides that it has jurisdiction, the case may proceed on the merits; if the court decides that it lacks jurisdiction, the defendant shall be given the relief required by such decision. Such decision upon a question of jurisdiction shall be by order which is appealable.

(2) Factual determinations made by the court in determining the questions of personal jurisdiction over the defendant shall not be binding on the parties in the trial of the action on the merits.

801.09 Summons, contents. The summons shall contain:

(1) The title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiffs as the place of trial, and the names of the parties to the action, plaintiff and defendant.

(2) A direction to the defendant summoning and requiring defendant to serve upon the plaintiff's attorney, whose address shall be stated in the summons, either an answer to the complaint if a copy of the complaint is served with the summons or a demand for a copy of the complaint. The summons shall further direct the defendant to serve the answer or demand for a copy of the complaint.

(a) Within 20 days, or within 45 days if the defendant is the state or an officer or agency of the state, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for him; or

ARTICLE VII.

JUDICIARY

Impeachment; trial. Section 1. [*As amended Nov. 1932*] The court for the trial of impeachments shall be composed of the senate. The assembly shall have the power of impeaching all civil officers of this state for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall

concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office, after he shall have been impeached, until his acquittal. Before the trial on an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the state; but the party impeached shall be liable to indictment, trial and punishment according to law. [*1929 J.R. 72, 1931 J.R. 58, vote Nov. 1932*]

Judicial power, where vested. SECTION 2. [*As amended April 1966*] The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, and courts of probate. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and may authorize the establishment of inferior courts in the several counties, cities, villages or towns, with limited civil and criminal jurisdiction. Provided, that the jurisdiction which may be vested in municipal courts shall not exceed in their respective municipalities that of circuit courts in their respective circuits as prescribed in this constitution; and that the legislature shall provide as well for the election of judges of the municipal courts as of the judges of inferior courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said municipal and inferior courts shall not be longer than that of the judges of the circuit courts. [*1963 J.R. 48, 1965 J.R. 50, vote April 1966.*]

The Shawano-Menominee court was a constitutional district court since Menominee county was not organized for judicial purposes. Pamanet v. State, 49 W (2d) 501, 182 NW (2d) 459.

If 425.113 were to be interpreted so as to remove a court's power to issue a body attachment for one who chooses to ignore its orders, such interpretation would cause the statute to be unconstitutional as a violation of the principle of separation of powers. Smith v. Burns, 65 W (2d) 638, 223 NW (2d) 562.

The power to appoint counsel for an indigent defendant vested by 970.02 (6) in a judge cannot be transferred to a non-stock, nonprofit corporation operating as a public defender's office. Such transfer would be invalid as violative of sec. 2, vesting the judicial power in the courts. 63 Atty. Gen. 14.

Sections 489m, 490m and 561 (8), ch. 90, laws of 1973, may provide for and implement a legislative appointment to the office of county judge contrary to sec. 2 and Art. XIII, sec. 10. 63 Atty. Gen. 24.

In mental hearings under 51.02 or alcohol or drug abuse hearings under 51.09 (1) power to appoint attorney at public expense, to determine indigency and to fix compensation are judicial and must be exercised by the court or under its direction and cannot be limited by the county board or delegated to private nonprofit corporation. 63 Atty. Gen. 323.

The separation of powers control of courts and lawyers. Currie, Resh, 1974 WBB No. 6.

Supreme court, jurisdiction. SECTION 3. The supreme court, except in cases otherwise provided in this constitution, shall have appellate jurisdiction only,

which shall be coextensive with the state; but in no case removed to the supreme court shall a trial by jury be allowed. The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same.

Office of the Clerk

SUPREME COURT

STATE OF WISCONSIN

ROBERT O. UEHLING
CLERK

Madison, January 3, 1978

To James T. Conway
3814 N. Townhall Road
Janesville, WI 53534

Robert H. Bichler
P. O. Box 516
Racine, WI 53401

The Court today announced decision in your case as follows:

#75-748-D - In the Matter of the Disciplinary Proceedings Against James T. Conway, Attorney at Law

MOTION FOR REHEARING DENIED WITHOUT COSTS.

(JUSTICE ABRAHAMSON TOOK NO PART)

Respectfully yours,
ROBERT O. UEHLING

Clerk of Supreme Court.

Office of the Clerk

SUPREME COURT

STATE OF WISCONSIN

ROBERT O. UEHLING
CLERK

Madison, September 8, 1976

To Mr. James T. Conway, Defendant
3814 N. Townhall Rd.
Janesville, WI 53534

Mr. Robert H. Bichler
Counsel for Plaintiff
840 Lake Ave., P. O. Box 516
Racine, WI 53401

Sir:—The Court today announced decision in your case as follows:

STATE OF WISCONSIN v. JAMES T. CONWAY, #75-748.

The Court having issued an order on August 3, 1976, requiring the defendant to show cause why a default judgment revoking defendant's license to practice law should not be entered, and a hearing having been held thereon on Tuesday, September 7, 1976, and the Court being fully advised in the premises,

IT IS ORDERED:

1) That the defendant shall file with the Clerk of this Court and serve on counsel for the plaintiff at his address as set forth above an answer to the complaint herein within twenty (20) days of the date of this order.

2) That if the defendant fails to file and serve an answer as required by this order, the Court will proceed with the matter as a default.

~~The opinion of the Court has been filed this day.~~

Respectfully yours,
ROBERT O. UEHLING

Clerk of Supreme Court.